

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(226)

CRM-M-40995-2022
Date of Decision: 27.09.2022

Bikramjit @ Raju @ Bikramjit Raju

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Sanjeev Kumar, Advocate for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.43 dated 13.4.2022 under sections 363, 366 IPC (section 376 IPC and sections 3 & 4 of POCSO Act were added later on) registered at Police Station, Sadar Jalandhar.

As per factual matrix, the FIR in question was lodged by the mother of the prosecutrix, wherein it was alleged that her daughter, who was about 17 years of age went missing from home on 4.4.2022 at about 3.50 PM. She had also taken her Aadhar Card and did not return. They made best of the efforts to search her but failed to trace her. Thereafter, on inquiry she came to know that Bikramjit i.e. the present petitioner, who used to visit their house had allured her daughter on the promise of marriage. On recording her statement FIR in question was registered and the investigation commenced.

During investigation, petitioner and prosecutrix were recovered on 2.5.2022. The prosecutrix was medically examined and was also produced before the Magistrate concerned for recording her statement under Section 164 Cr.P.C. The petitioner was arrested on the same day and was sent to judicial custody. He approached the court of learned Addl. Sessions Judge, Jalandhar for grant of bail, however, after hearing the parties, the same was declined vide order dated 18.8.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that both prosecutrix and petitioner were in consensual relationship. The prosecutrix went missing from home on 4.4.2022 and thereafter she was recovered along with petitioner on 2.5.2022. In her statement recorded under section 164 Cr.P.C the prosecutrix had deposed that she went with the petitioner of her own free will. She further deposed that she wanted to marry the petitioner as her family members used to beat her. To buttress his arguments counsel submits that both the prosecutrix and her mother have been examined by the learned Trial Court as PW-1 and PW-2 respectively and they have not supported the case of prosecution. Counsel submits that prosecutrix is in the family way and both the families have decided to marry them. It is submitted that the marriage could not be performed as the petitioner is behind bars and prosecutrix is yet to attain the age of majority. Counsel further submits that as the material witnesses already stand examined, possibility of the petitioner influencing them does not survive any more. Counsel submits that petitioner has no criminal antecedents and

hence he deserves to be granted the benefit of bail.

On the other hand, learned State counsel on instructions from ASI Daljit Singh submits that there are specific allegations against the petitioner. He submits that even if it is assumed that the prosecutrix was a consenting party, still her consent has no legal sanctity as she was minor at the time of occurrence. He submits that the prosecutrix was medically examined and she was found to be pregnant. However, he candidly acknowledges that both prosecutrix and her mother have been examined by the learned Trial Court and they have not supported the case of prosecution. He further submits that as per information provided to him petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, the prosecutrix went missing from her home on 4.4.2022 and she was recovered along with the petitioner on 2.5.2022. In her statement recorded under section 164 Cr.P.C she deposed that she left her home voluntarily as she wanted to marry the petitioner. On her medical examination she was found to be pregnant. The prosecutrix and her mother have been examined before the learned Trial Court and they have not supported the case of prosecution and hence the possibility of the petitioner influencing the material witnesses does not survive any more. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would

take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

27.09.2022

lucky	Whether speaking/reasoned:	Yes/No
	Whether Reportable:	Yes/No